IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID R. ANDERSON,	)	4:17CV3054
	)	
Plaintiff,	)	
	)	
v.	)	MEMORANDUM
	)	AND ORDER
OCWEN LOAN SERVICING, LLC,	)	
and AMERICAN MODERN	)	
INSURANCE GROUP,	)	
	)	
Defendant.	)	
	)	

This matter is before the court on the findings and recommendation filed on October 20, 2017, by Magistrate Judge Cheryl R. Zwart, who, on her own motion, recommends "that Plaintiff's claims be dismissed with prejudice for want of prosecution" (Filing No. 26). Plaintiff, who is proceeding pro se, mailed a letter to the clerk of the court which was received on November 3, 2017, and docketed as a response to Judge Zwart's findings and recommendation (Filing No. 27).[1] From its content, however, Plaintiff's mailing appears to be more in the nature of a motion for reconsideration addressed to Judge Zwart.

In light of this filing, the court at this time will not adopt Judge Zwart's findings and recommendation, but will instead remand this matter to her for reconsideration of the issue of whether it should be dismissed for want of prosecution and, if so, whether the dismissal should be with or without prejudice. *See* 28 U.S.C. § 636(b)(1) ("The judge may ... recommit the matter to the magistrate judge with instructions); *see also* NECivR 72.2(e) ("If the district judge remands a dispositive matter to the

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[1] Such a response would be timely under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2).

magistrate judge, the magistrate judge's subsequent recommendation is also subject to objection under this rule.").

IT IS ORDERED:

1.   The magistrate judge's findings and recommendation (Filing No. 26) are not adopted.

2.   This matter is remanded to Judge Zwart for reconsideration of the issue of whether it should be dismissed for lack of prosecution and, if so, whether the dismissal should be with or without prejudice.

DATED this 21st day of November, 2017.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge